

ID: CCA_2011101413473054

Number: **201144029**

Release Date: 11/4/2011

Office:

UILC: 6501.03-02, 7508A.00-00

From:

Sent: Friday, October 14, 2011 1:47:53 PM

To:

Cc:

Subject: RE: Presidentially declared disaster effect on ASER --

This email is in response to your question about the effect of the federally declared disaster for Hurricane Irene on the assessment period of limitations.

While the IRS generally does not postpone under section 7508A the time for the Government to perform certain acts, the postponement of time for taxpayers to file petitions to the Tax Court will increase the suspension of the assessment period of limitations pursuant to section 6503(a)(1) in certain cases.

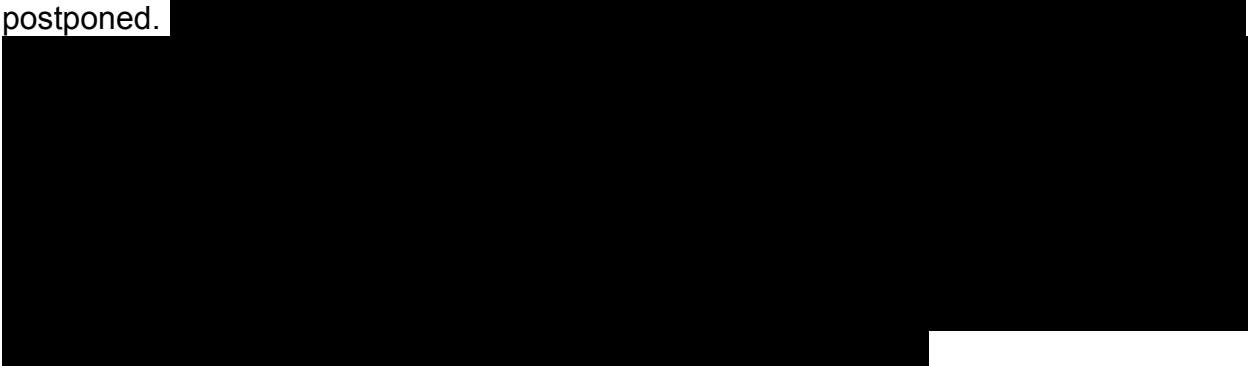
Section 7508A provides that if a taxpayer is affected by a federally declared disaster, the IRS may provide a postponement of up to a year for affected taxpayers to perform certain prescribed acts. The IRS may also provide a postponement for the Government to perform certain acts. IRS News Release IR-2011-87 for Hurricane Irene provided taxpayers until October 31, 2011 to perform all time-sensitive acts that would have otherwise been due between August 27 and October 31, 2011, including the time in which to file a petition to the Tax Court in response to a statutory notice of deficiency. The news release did not postpone the due date of any government acts.

The issuance of a statutory notice of deficiency, however, may indirectly affect the running of the assessment period of limitations due to the tolling that occurs when a statutory notice of deficiency is issued. The three-year assessment period of limitations under section 6501(a) is suspended under section 6503(a)(1) during any period during which the IRS is prohibited from making an assessment of a deficiency, plus 60 days. Under section 6213(a), the Service is prohibited from assessing a deficiency during the 90-day (or 150 days for persons outside the United States) period after a statutory notice of deficiency is mailed during which the taxpayer may file a petition to the Tax Court. The result of these provisions is that the assessment period of limitations is suspended for 150 days (90 days plus 60 days) if the taxpayer does not file a petition in response to the statutory notice of deficiency.

The question has arisen as to the impact on the assessment period of limitations if an affected taxpayer's time to file a petition to the Tax Court is postponed by the Service's grant of relief under section 7508A. Specifically, with respect to the relief granted to taxpayer's affected by Hurricane Irene, if a statutory notice of deficiency were issued to

an affected taxpayer before August 27, 2011, such that the 90-day period by which the taxpayer must otherwise petition Tax Court falls between August 27 and October 31, 2011. In this situation, the assessment period of limitations would be tolled (over and above the tolling provided for by sections 6503 and 6213) for the same period for which the affected taxpayer's time to file a petition is tolled.

For example, if a taxpayer affected by Hurricane Irene was issued a statutory notice of deficiency on July 1, 2011, the taxpayer would usually have had until September 29, 2011 (90 days) to file a Tax Court petition. The relief for taxpayers affected by Hurricane Irene postpones the time the taxpayer has to file the petition to October 31, 2011. Accordingly, if the taxpayer fails to file his Tax Court petition by that date, the IRS's assessment period is also extended by the 32 days that the 90-day petition period was postponed.



Feel free to contact me if you have any further questions.